

JOINT APPLICATION FOR PROPOSED WORK IN MONTANA'S STREAMS, WETLANDS, FLOODPLAINS AND OTHER WATER BODIES

To reduce paperwork, the agencies listed below have created this joint application form. This is **NOT** a joint permit. In the box below, **check all permits** that apply to your proposed work. After you complete the form, make a copy for each permit checked and sign each copy. **Send one copy with original signatures** to each agency responsible for each permit you have checked. Refer to the "Information for Applicant" sheet on the back of this form or the "Guide to Stream Permitting in Montana," available from participating agencies, for more information.

| <u>PERMIT</u> | <u>AGENCY</u> | <u>FEE</u> |
|--|--|---|
| <input checked="" type="checkbox"/> Natural Streambed & Land Preservation Act (310) <input checked="" type="checkbox"/> Stream Protection Act (SPA124) (for government agencies or government contractors only) <input checked="" type="checkbox"/> Floodplain Permit <input checked="" type="checkbox"/> Section 404/Section 10 Permits <input checked="" type="checkbox"/> 318 Authorization <input checked="" type="checkbox"/> Navigable Rivers Land Use License/Easement | Local conservation district MT Department of Fish, Wildlife & Parks (DFWP) County Floodplain Administrator U.S. Army Corps of Engineers (COE) MT Department of Environmental Quality (DEQ) MT Department of Natural Resources & Conservation (DNRC) | No Fee No Fee Varies (\$25-\$400) Varies (\$0-\$100) \$150 License \$25-- Easement \$50 |

NOTE: Other laws may apply. It is your responsibility to obtain all necessary permits before beginning work. **Incomplete applications will be rejected.**

1. NAME OF **LANDOWNER** _____
 Address _____ Day **Phone** _____
 City/State/Zip _____ Evening Phone _____

2. NAME OF **APPLICANT** (if different from landowner) _____
 Applicant is: (check one) Landowner Contractor Other (explain) _____
 Government Agency Landowner's Agent (Title) _____
 Address _____ Day **Phone** _____
 City/State/Zip _____ Evening Phone _____
 Has the landowner consented to this project? Yes No

3. ATTACH A **MAP**, including **DIRECTIONS**, so the site where the work will be done can be located. Yes, attached.

4. NAME OF **STREAM** OR **WATER BODY** at site location _____ Nearest **town** _____
Location _____ 1/4 _____ 1/4 _____ 1/4, Section _____, Township _____, Range _____, County _____

This space is for SPA 124 permits only (government projects). Project Name _____
Control Number _____ Contract letting date _____
 MEPA/NEPA Compliance Yes No

5. **TYPE OF PROJECT** (check all that apply)

| | | |
|--|-----------------------------------|--------------------|
| Stream Crossing (bridges, culverts, fords) | Fish Habitat/Pond | Mining |
| Bridge/Culvert Removal | Recreation (docks, marinas, etc.) | Dredging |
| Road Construction/Maintenance | New Residential Structure | Core Drill |
| Bank Stabilization | Manufactured Home | Placement of Fill |
| Flood Protection | Commercial Structure | Water Well |
| Channel Alteration | Improvement to Existing Structure | Wetland Alteration |
| Irrigation Structure | Utilities | Other _____ |

6. WHAT IS THE **PURPOSE** of the proposed project?

7. IS APPLICATION for an **annual maintenance permit**? Yes No
 If yes, an **annual plan of operation** must be attached to this application.

8. PROPOSED **CONSTRUCTION** DATE: Start ____/____/____ Finish ____/____/____
Is any portion of the work **already completed**? Yes No If yes, describe the completed work.

9. IN SECTIONS 9(a) through 9(e), DESCRIBE IN DETAIL the **work** you plan to do. Attach additional sheets if necessary.

Attach a plan or drawing of the proposed project. Include (1) the dimensions of the project; (2) dimensions and location of fill or excavation sites; (3) location of storage or stockpile materials; (3) location of existing or proposed structures, such as buildings, utilities, roads, or bridges; (4) drainage facilities; (5) a north arrow Floodplain permit applicants are encouraged to inquire locally since additional information is required.

- a. **Dimensions** of the project. Describe the impacted area. How many linear feet of bank will be impacted? How far will the proposed project extend into and away from the water body?
- b. How much **vegetation** and what type of vegetation will be removed or covered with fill material? How will the disturbed area be reclaimed?
- c. What **materials** will be used, and how much (cubic yards, linear feet, etc., of each)?
- d. What **equipment** will be used for the work?
- e. What **steps** will be taken during and after construction to minimize: (use additional sheets if necessary)
1. Erosion and sedimentation?
 2. Stream channel alterations?
 3. Effects on streamflow or water quality caused by materials used or removal of ground cover?
 4. Effects on fish and aquatic habitat?
 5. Risks of flooding or erosion problems upstream and downstream?

10. COMPLETE 10(a) through 10(c) ONLY if you are applying for a FLOODPLAIN OR SECTION 404/SECTION 10 PERMIT.

a. Will the project involve placement of **fill material** in a wetland? If yes, describe. How much **wetland** area will be filled? Include a delineation of the wetland boundary and a calculation of the impacted acreage.

b. List names and addresses of **landowners** adjacent to and across from the project site. (At its discretion, the permitting agency may contact these landowners.)

c. If you have already applied for any permits, list them and indicate whether they were **issued**, **denied**, or are **pending**.

d. FEMA Map Number

e. Does this project comply with local planning or zoning regulations? Yes No

Application Submittal Information (Send only to those agencies checked on page one of this form.)

310 Permits. Submit three copies of the application form and plans to the conservation district. Nothing additional is required unless specifically requested by the conservation district. **Application review usually takes 30 to 60 days.**

SPA 124 Permits (government projects only). A set of preliminary plans or sketches of the proposed project must accompany the application. (Note: For projects sponsored by the Department of Transportation, two sets of plans must be sent with this form to the Helena DFWP office.)

Application review may take up to 60 days.

Floodplain Permits. Prior to submitting this application, contact the local floodplain administrator. Permit requirements and fees may vary. Applicant may be required to hire a professional engineer to submit plans. **Application review usually takes up to 60 days.**

Section 404/Section 10 Permits. Nothing additional is required unless specifically requested. **Application review may take 30 to 120 days.**

318 Authorizations. Do not send this form directly to DEQ if you are applying for a 310 permit or SPA 124 permit. You will be notified if you must apply. **If this authorization is needed, application review usually takes 10 days.**

Easements on State Navigable Water Bodies. Additional fees, a land survey, and other information will be required. Contact the local DNRC land office for information. **Land use license review usually takes up to 60 days. Easements may take up to 90 days.**

SIGNATURES/AUTHORIZATIONS

I certify that the above statements are true and correct. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the landowner. I authorize the inspection of the project site by inspection authorities. Both the landowner and the person doing the work have the duty to comply with the stipulations of all permits and laws.

For 310 applicants only

When an applicant or other team member disagrees with the conservation district supervisors' decision, the applicant or other team member shall request that an arbitration panel be appointed as provided in MCA 75-7-113 to hear the dispute and make a decision. The request must be made in writing and must be received by the district within five working days of the receipt of the supervisors' decision. Disputes may also be solved informally. The rules of arbitration are included with this form.

By signing this form, I acknowledge that I have read and understand the Natural Streambed and Land Preservation Act rules of arbitration and agree, in any disputes arising from the supervisors' decision, to abide by the rules of arbitration.

Signature of Landowner
(may be waived by agency for utilities

Date

Signature of Applicant

Date

and other easement holders)*For Section 404 or Section 10 applications, see signature requirements in Information For Applicant Sheet

Contractor/Agent

Date

INFORMATION FOR APPLICANT

Instructions for filling out the Joint Application for Proposed Work in Montana's Streams, Wetlands, Floodplains, and Other Water Bodies.

This application form can be used to apply for permits from agencies listed on the front of the application form. The participating agencies created this form to reduce the number of application forms an applicant must complete when planning to work in Montana's waterways. Individual authorizations or permits must be obtained prior to conducting work, and will be issued by each agency independently.

List of Permits on Front. Review "A Guide to Stream Permitting in Montana" to determine which permits are necessary for the planned work. This guide is available from all participating agencies. Please note that the guide lists permit requirements from other agencies than those listed in the box on the front of the application form. Applications must be made to those agencies on separate forms if the law applies, as they are not covered by this form. Check a box on the top of the front page for every permit required for your project, and send the required number of copies of this application form with original signatures and attachments to each applicable agency. Fees listed in the box are for the applicant's information. **Do not submit the fee with the application form.** The responsible agency will contact you if the fee applies to your project.

Questions 1 through 9 are required for all applications. Fill out question 10 only if you are applying for a floodplain permit, a Section 404 permit, or a Section 10 permit. **The numbers below refer to the numbers on the application form.**

1. The name and address of the landowner are required only if they are different from the applicant. Be aware, that the issuance of a permit does not constitute landowner permission. The applicant has the responsibility to secure landowner permission prior to conducting work.
2. The applicant can be the landowner or any agent of the landowner. For 310 permits, the applicant, by signing the application form, agrees to abide by the rules of arbitration written on the back of this form.
- 3 – 4. This information is required to locate the site and the water body where the work will be completed. Make sure to include directions to the site.
5. Check all boxes that apply to the proposed work.
6. Describe the need and purpose of the proposed work. What will it be used for and why?
7. Conservation districts may authorize minor maintenance activities for up to ten years. If the proposed work will be conducted each year, check this box. Not all conservation districts authorize maintenance permits, however. An annual plan of operation would include the nature and extent of work to be conducted each year. It should include, at minimum, a detailed description of the work to be done, the timing of the work proposed, and the amount of streambed materials to be removed, as well as other information required by the district. If the conservation district authorizes an annual maintenance permit, the application still may be required to seek approval from other agencies prior to doing work each year.
8. The timing of construction is an important factor in determining impacts to water quality, fish, and aquatic life. Authorizations/permits may contain timing restrictions on construction activities.
9. Use this section to describe the proposed work, and how you plan to mitigate the impacts of the work. A separate plan or drawing of the work, with information applicable to your project, is required. Application review time will depend upon the submittal of a complete application.
 - a. Generally describe the impact area of your project and provide the dimensions listed. Use the high water mark as a point of measure. If you are unsure of the high water mark, specify another point of measure.
 - b. Most agencies require that only the vegetation that is necessary to conduct the work be removed. Describe how you plan to revegetate the area or otherwise control erosion or sedimentation at the site.
 - c. Describe the materials that will be used to construct the proposed work. Include the dimensions if they are not included in drawings provided.
 - d. List all equipment that will be used for construction of the project.
 - e. Projects must be designed and constructed to minimize impacts to the water body. Use this section to describe what you plan to do to minimize the impact of the proposed project during and after construction. Examples would include sediment fences along the bank or below the proposed work, coffer dams to direct flow away from the project area, diverting the stream through a culvert, revegetating disturbed areas, timing of the project, etc.
10. Section 10 should be answered only if you are applying for a floodplain or 404/10 permit.
 - a. Wetlands include areas that are inundated or saturated with water long enough to support vegetation typically adapted for life in saturated conditions. Contact the Corps of Engineers if you are unsure if you have a wetland. Wetlands are generally determined on a site-by-site basis. Subsection (b) and (c) are self-explanatory.

SIGNATURE REQUIREMENTS FOR THE CORPS OF ENGINEERS (Section 404 or Section 10 Permit Applications)

Applications submitted to the Corps of Engineers have certain signature/authorization requirements. On page 3 of the application form, there are three signature lines. The Corps requires the signature of the applicant/landowner and any agent acting on their behalf. For these signatures, the Corps usually considers the landowners as the applicant.

***If you are a landowner** submitting this application and proposing to undertake a project on your own behalf, please sign and date both the "Signature of Landowner" and "Signature of Applicant" lines.

***If you are a consultant/contractor** acting as an agent on behalf of a landowner, please sign and date only the line designated "Signature of Agent" and indicate your title. The landowner must sign and date the "Signature of Landowner" and "Signature of Applicant" lines to indicate authorization for you to act on his/her behalf.

***If a utility company submits this application**, a representative of the company should sign and date the "Signature of Applicant" line. Landowner signatures are not required.

ADDRESSES/CONTACTS

Army Corps of Engineers, 301 South Park, Drawer 10014, Helena, MT 59626-1375, 441-1375 for Section 404/Section 10 permits. **After February 19, 2002**, the address will be: *US Army Corps of Engineers, Helena Regulatory Office, 10 West 15th Street, Suite 2200, Helena, MT 59626*

Department of Environmental Quality, Permitting and Compliance Division, Water Protection Bureau, Box 200901, Helena, MT 59620-0901, 444-3080, for 318 authorizations.

If specific addresses are not provided in this section:

Contact the Montana Association of Conservation Districts, (406) 443-5711 or the Conservation Districts Bureau, DNRC, 444-6667 **to locate the local conservation district**, for 310 permits.

Contact the Montana Fish, Wildlife and Parks, 444-2449, **to locate the correct Fisheries Region** for SPA 124 permits.

Contact the Department of Natural Resources and Conservation, Water Resources Division, 444-6601, **to locate the local floodplain administrators**, or, call the county office for floodplain permits. Contact the Special Use Management Bureau, 444-2074, **to locate the correct land office** for your project for land use licenses or easements on navigable rivers.

To locate any state agency on the web: www.discoveringmontana.com

NATURAL STREAMBED AND LAND PRESERVATION ACT - RULES OF ARBITRATION (for 310 applications only)

The Natural Streambed and Land Preservation Act arbitration process is governed by the Uniform Arbitration Act, MCA 27-5-111 through 27-5-324, except as expressly provided in these rules.

1. Administering Agency. The conservation district or the county attorney will act as the administering agency for the arbitration process. Each team member is a party to the arbitration. The person or persons requesting arbitration is the contesting party. By mutual agreement, the parties shall select a person to provide clerical services and to collect fees associated with the costs of the arbitration panel. If mutually agreed, the conservation district may provide these services. The applicant may not submit a second application for the original project during the arbitration process unless the applicant withdraws his request for arbitration.

2. Selection of the Arbitration Panel. Within thirty (30) days of the request for arbitration, each team member must submit the names and qualifications of three consenting persons to the administering agency. The senior district judge for the judicial district of the conservation district involved will select three panel members, one from each team member's group of names. The panel members must be residents of that judicial district at the time of selection. If the contesting party fails to submit names to the administering agency within 30 days, the arbitration request will be withdrawn. If the other parties fail to submit names, the additional panelists will be selected by the senior district judge. The panel shall only sit for the period of time necessary to settle the dispute before it and will review the proposed project in line with the policy set forth by MCA fi 75-7-102. The panel shall appoint a chair. The powers of the arbitration panel shall be exercised by majority agreement of the panel. If during the course of the hearing an arbitrator ceases to act, the remaining panel members may continue with the hearing and make a determination on the dispute.

3. Costs of the Arbitration. Costs of the arbitration panel, computed as for jurors' fees under 3-15-201, shall be borne by the contesting party or parties. Clerical costs of the panel shall be paid for by the nonprevailing party determined by the panel. For all other expenses, each party shall bear their own costs.

4. Prehearing. The panel may call a prehearing to set arbitration hearing schedule, and to request specific written information from the parties.

5. Date, Time, and Place of Hearing. The panel will select the time and place for the hearing. The hearing must be held in the judicial district in which the dispute takes place. The panel may consider requests for specific locations for the hearing. On-site inspections may be conducted by the panel. The chair of the panel may require the parties to submit copies of exhibits and a summary of its case, including a list of witnesses, to the panel and all other parties, prior to the hearing.

6. Notice of Hearing. Not less than ten days before the hearing, the administering agency shall notify personally or by certified mail the parties to the arbitration. The notice shall include a description of the subjects and issues involved and the time and place of the hearing.

7. Representation and Assistance. All parties have the right to be represented or assisted by an attorney.

8. Attendance at Hearings. The arbitration panel may excuse a witness during the testimony of another witness. The arbitration panel may hold the hearing and make its determination, even if a party duly notified fails to appear.

9. Scope of Review. The arbitration panel will review the evidence and uphold, modify, or deny the supervisors' decision. The panel shall consider evidence used by the supervisors in reaching their decision. The panel may consider new evidence or information the parties wish to present relevant to the original project if no objection is raised to the presentation of the new evidence. The panel may not consider new evidence if an objection is made.

10. Arbitration Hearing Process--Witnesses, Subpoenas, and Depositions. The hearing will be informal. The Montana Rules of Evidence will not apply but irrelevant, immaterial, or unduly repetitious evidence may be excluded by the panel. The parties are entitled to be heard, present evidence material to the notice of project and the supervisor's decision, and question witnesses testifying at the hearing. All members of the panel may question the parties and witnesses, subject to the control of the Chair. At the conclusion of the hearing, the panel may take the matter under advisement. A majority of the panel will render a final decision. The arbitration panel may request the district court issue subpoenas for the attendance of witnesses and the production of books, records, documents, and other evidence and may administer oaths. The provisions of law providing for service of subpoenas are applicable. The arbitration panel may permit a deposition to be taken, by the arbitration panel, of a witness who cannot be subpoenaed or is unable to attend the hearing.

11. Procedure at the Hearing. The hearing must be tape-recorded. If judicial review is necessary, the tapes or relevant portions of the tapes may be transcribed. The parties may arrange for a transcription of the hearing at their own cost.

Each party may give opening statements, describing, generally, their position on the supervisors' decision. The contesting party will then present its witnesses and evidence. The other parties will follow, in turn, with their witnesses and evidence. Questions may be asked by the panel and team members after each party presents their case. Each party may conclude with closing remarks or statements summarizing their positions and evidence.

12. Award. The award is the final decision of the arbitration panel. The award must be in writing and signed by the arbitrators. The arbitration panel's award must be issued within sixty (60) days after the hearing. The arbitration panel shall deliver a copy of the decision to each of the parties and the district judge either personally or by certified mail. The district court shall confirm the panel's award, unless a party applies and shows grounds for vacating, modifying, or correcting the award.

13. Judicial Review. If the panel's decision is contested, the court will review the panel's decision in accordance with MCA fi 27-5-312 and 313, Uniform Arbitration Act.